IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 18TH JUNE 2007 / 28TH JYAISHTA 1929

WP(C).No. 19633 of 2006(K)

PETITIONER:

---

1. V.LAKSHMI, W/O. P.C.BALAKRISHNAN,
   RESIDING AT BRAHMAGIRI `A' ESTATE THIRUNELLI
   VILLAGE, NORTH WAYANAD TALUK, REPRESENTED BY
   POWER OF ATTORNEY THE SECOND PETITIONER
   B.CHANDRAN.

2. B.CHANDRAN, S/O. P.C.BALAKRISHNAN,
   RESIDING AT BRAHMAGIRI `A' ESTATE,
   THIRUNELLI VILLAGE, NORTH WAYANAD TALUK.

BY ADV. SRI.T.C.MOHANDAS
SRI.T.M.SUNIL
SMT.S.CHITHRA
SRI.A.S.BRIJESH

RESPONDENTS:

---

1. THE STATE OF KERALA, REPRESENTED BY
   THE CHIEF SECRETARY,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE CUSTODIAN OF VESTED FOREST,
   OLAVAKODE CIRCLE, PALAKKAD.

3. THE DIVISIONAL FOREST OFFICER,
   NORTH WAYANAD.

BY GOVERNMENT PLEADER SRI.PRAKASH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 19633 of 2006(K)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE POWER OF ATTORNEY EXECUTED BY THE FIRST PETITIONER IN FAVOUR OF THE SECOND PETITIONER.

EXT.P2: COPY OF THE JUDGMENT DATED 13.10.2005 IN WRIT APPEAL NO.820/2000.

EXT.P3: COPY OF THE AFFIDAVIT AND PETITION IN I.A.752/06 IN W.A.NO.820/2000 ON THE FILE OF THE HONOURABLE HIGH COURT.

EXT.P4: COPY OF THE NOTIFICATION DATED 4.5.2001 ISSUED BY THE CUSTODIAN OF VESTED FOREST, OLAVAKKODE.

EXT.P5: COPY OF THE COVERING LETTER ACCOMPNYING EXHIBIT P4 NOTIFICATION.

EXT.P6: COPY OF THE ORDER OF THE TALUK LAND BOARD, MANANTHAVADY DATED 20.7.1997 IN T.L.B.NO.839/1973.

EXT.P7: COPY OF THE ORDER DATED 4.10.2001 IN C.M.P.NO.47905 OF 2001 IN O.P.NO.29405/2001 ON THE FILE OF THE HONOURABLE COURT.

EXT.P8: COPY OF THE AFFIDAVIT PETITION, ENDORSEMENTS AND ORDERS IN I.A.NO.78/2002 IN O.A.NO.63/2001 ON THE FILE OF THE FOREST TRIBUNAL, KOZHIKODE.

EXT.P9: COPY OF THE JUDGMENT DATED 3.3.2006 IN O.P.NO.29405 OF 2001 ON THE FILE OF THE HONOURABLE HIGH COURT.

EXT.P10: COPY OF THE COUNTER STATEMENT FILED BY THE STATE AND CUSTODIAN OF VESTED FOREST IN O.A.NO.63/2001 ON THE FILE OF THE FOREST TRIBUNAL, KOZHIKODE.

EXT.P11: COPY OF THE COMMISSION REPORT DATED 18.1.2007.

RESPONDENT'S EXHIBITS:

EXT.R3(a): COPY OF ORDER DATED 21.7.2006 IN I.A.752/06 IN WA 820/00.

EXT.R3(b): COPY OF COMPLAINT SUBMITTED BY THE 1ST GRADE SURVEYOR TO THIS RESPONDENT.

EXT.R3(c): COPY OF REQUEST ADDRESSED TO THE STATION HOUSE OFFICER, THIRUNELLI POLICE STATION.

....

BKN // TRUE COPY//

P.A. TO JUDGE.

S.SIRI JAGAN, J.
==========
W.P.C. No. 19633 OF 2006

Dated this the 18th day of June, 2007
==========
JUDGMENT

The petitioner approached this court seeking the following reliefs:-

(i) Declare that the Brahmagiri 'A' Estate as it was known while in the possession of the first petitioner is a plantation and no part of it is a Private Forest.

(ii) Issue a writ of mandamus, any other appropriate writ order or direction commanding the respondents and the officers subordinate to them not to enter the plantation formerly known as the Brahmagiri 'A' Estate and destroy the plantation or in any way disturb the possession of the owners of the estate.

(iii) Direct the Forest Tribunal Kozhikode to jointly try and dispose of O.A. No.63/2001, 64/2001, 1/2002 and 2/2002 as expeditiously as possible.

I am of the opinion that since the petitioner has raised all his contentions in the O.A., which is pending before the Forest Tribunal, it is for the petitioner to approach the Forest Tribunal. Therefore, the Writ Petition is disposed of without prejudice to the right of the petitioner to take all these contentions before the Tribunal and seek appropriate orders in the said O.As.

S.SIRI JAGAN
Judge.

bkn